

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

TONY GIVENS,

Plaintiff,

v.

CIVIL ACTION NO. 2:06-cv-00392

WEST VIRGINIA, et al.,

Defendants.

ORDER

This action was referred to the Honorable Judge Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and has recommended that the court dismiss plaintiff's complaint and amended complaint for failure to state a claim upon which relief can be granted.


The plaintiff timely filed objections to the Magistrate Judge's findings of fact and recommendation. Having reviewed the plaintiff's objections *de novo*, the court **FINDS** that they are without merit. As far as this Court can determine, plaintiff seeks relief from a first offense DUI conviction and the resulting loss of his driver's license occurring in Marion County, West Virginia in 1997-98. As the Magistrate Judge properly noted, plaintiff's complaint and amended complaint are virtually unintelligible. Neither complaint sets forth any cogent set of facts, allegations, or articulable legal theory that would entitle plaintiff to any relief whatsoever. Further, it appears that plaintiff is engaged in a pattern of filing frivolous petitions and civil complaints arising from this

same set of facts in, among other courts, the Circuit Courts of Marion and Kanawha counties, the Supreme Court of Appeals of West Virginia, the United States District Courts for the Northern and Southern Districts of West Virginia, and the United States Court of Appeals for the Fourth Circuit. In fact, plaintiff has been enjoined from filing any other pro se civil actions related to his DUI conviction in any holding court in the Northern District of West Virginia. Accordingly, the court accepts and incorporates, in part, herein the findings and recommendation of the Magistrate Judge, and **DISMISSES** the plaintiff's complaint and amended complaint pursuant to Federal Rules of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted.

This Court strongly cautions plaintiff against wasting valuable judicial resources by filing further frivolous civil actions in the Southern District of West Virginia. This Court reminds plaintiff that it will not hesitate to impose appropriate sanctions if plaintiff continues this conduct.

The court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Stanley, counsel of record, and any unrepresented party.

ENTER: September 1, 2006



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE